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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/125,958	08/26/1998	TOMOYUKI OHTANI	5162-46	8366

757 7590 11/06/2003

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EXAMINER

LEE, CHI HO A

ART UNIT	PAPER NUMBER
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2663

DATE MAILED: 11/06/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/125,958

Applicant(s)

OHTANI ET AL.

Examiner

Andrew Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-8, 11-17, 25, 26, 37, 38, 40-48, 50-57 and 59-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7, 8, 13-17, 25, 26, 37, 38, 40-48, 50-57 and 59-64 is/are allowed.
- 6) ☒ Claim(s) 5, 6, 11 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 5 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Fujita et al U.S. Patent Number 5,412,659.

Re Claim 5, Fujita et al teaches in fig. 1, Base station 100 that includes a Controller for assigning frame number to be transmitted to mobile station (a frame number adder & a transmitter); wherein when the base station detects frame number of the error due to interference by the Out-of-Sync detector 107 (expected delay time) a copy of is retransmitted error copy of the frame number, wherein the 107 inherently determines out-of-sync condition based on a predetermined or expected delay for the received signal (See fig.3, & col. 4, lines 4 +).

Re Claim 6, refer to Claim 5, fig. 2 teaches the mobile station (a receiver) including the time-slot detector (a frame synchronizer) coupled to the controller for determining the Collision Count of the frame number that is transmitted back to the base station in the signaling message wherein the adjustment is based on synchronization between the frame numbers.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujita et al U.S. Patent Number 5,412,659 in view of Bellec U.S. Patent Number 5,838,746.

Re Claims, 11 and 12, refer to Claim 1, refer to Claim 5, wherein the Out-of-Sync Detector detects an out-of-sync condition of a received control message when interference occurs and due to interference, a number of collision is recorded and reported back to the MTSO.

Fujita et al fails to explicitly teach when "a real delay time exceeds the expected delay time, the expected delay time is updated."

However, '746 Patent teaches enabling radio frames to be transmitted between terminals and radio base stations such the distance apart that causes the transmission delay between the terminals and the stations is smaller than a certain limit. The maximum transmission delay (a real delay time) is associated with the maximum distance between the mobile and the radio station that is known to the base station. One skilled in the art would have realized that when the determined delay exceeds the maximum allowable delay, the mobile is out of range of the base station. One skilled in

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art would have been motivated to recomputed the delay (expected delay) after handing off to the new base station to maintain connectivity with the network.

Therefore, it would have been obvious to one ordinary skilled incorporate the teaching of '746 patent into the teaching of Fujita et al.

***Response to Arguments***

3. Applicant's arguments with respect to claims 5, 6, 11, 12 have been considered but are moot in view of the new ground(s) of rejection.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Lee whose telephone number is 703-305-1500. The examiner can normally be reached on Monday to Friday from 8:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 703-308-5340. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

A handwritten signature in black ink, appearing to be a stylized 'A' or 'L' followed by a flourish.

AI  
November 2, 2003